

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

U.S. BANK, N.A., in its capacity as Trustee for the
registered holders of Home Equity Asset Trust 2004-6,
Home Equity Pass-Through Certificates, Series 2004-6,

Plaintiff,

v.

PHILIP BENOODT, CAPITAL ONE BANK (USA),
N.A., PEOPLE OF THE STATE OF ILLINOIS ex rel.
TAMMIE THEISEN, and TAMMIE EMONS ,

Defendants.

Case No. 10-cv-812-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on the motion to dismiss without prejudice filed by plaintiff U.S. Bank, N.A., in its capacity as Trustee for the registered holders of Home Equity Asset Trust 2004-6, Home Equity Pass-Through Certificates, Series 2004-6 (Doc. 17). The Court construes the motion as a notice of dismissal pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), which allows a plaintiff to dismiss an action without a court order at any time before the opposing party serves an answer or a motion for summary judgment. No defendant has served an answer or motion for summary judgment in this case. Because the plaintiff has an absolute right to dismiss this case at the present time, the Court finds that this action is **DISMISSED without prejudice** and **DIRECTS** the Clerk of Court to close this case.

IT IS SO ORDERED.

DATED: November 14, 2013

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE